

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SEAN D. WOODSON,	§
	§
Defendant Below-	§ No. 222, 2012
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr. ID 0701003116
Plaintiff Below-	§
Appellee.	§

Submitted: July 10, 2012¹
Decided: July 24, 2012

Before **STEELE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

ORDER

This 24th day of July 2012, it appears to the Court that:

(1) On April 25, 2012, this Court received appellant Sean Woodson's notice of appeal from a Superior Court order, docketed on March 22, 2012, which denied Woodson's motion to reconsider the denial of a motion for expungement. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before April 23, 2012.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing Woodson to show cause why the appeal should not be

¹ The Court held this matter in abeyance pending the outcome of its decision in *Smith v. State*, 2012 WL 2821889, ___ A.3d ___ (Del. 2012), which was issued on July 10, 2012.

dismissed as untimely filed.² Appellant filed a response to the notice to show cause on May 3, 2012. He asserts that his appeal should not be deemed late because he filed a notice of appeal in the Superior Court on March 25, 2012 and also because he was prepared to file his appeal with the Supreme Court on March 30, 2012 but the prison authorities did not give him the opportunity to copy the materials and have them ready to be mailed until April 19, 2012, which was within the 30 day limitations period. Woodson argues that any delay in the Clerk's receipt of his materials should be attributable to prison officials, who are court-related personnel. The State has filed an answer in opposition to appellant's response.

(3) Time is a jurisdictional requirement.³ A notice of appeal must be received by the Office of the Clerk of *this* Court within the applicable time period in order to be effective.⁴ This Court recently reaffirmed its holding that an appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of 10 Del. C. § 147 and Delaware Supreme Court Rule 6.⁵ Unless the appellant can demonstrate that

²Del. Supr. Ct. R. 6(a)(iii) (2012).

³*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

⁴Del. Supr. Ct. R. 10(a) (2012).

⁵*Smith v. State*, 2012 WL 2821889, ___ A.3d ___ (Del. July 10, 2012); *Carr v. State*, 554 A.2d at 779.

the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁶

(4) Contrary to Woodson's argument, prison personnel are *not* court-related personnel.⁷ There is nothing to reflect that appellant's failure to timely file his notice of appeal is attributable in any way to court personnel. Accordingly, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

⁶*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁷*Zuppo v. State*, 2011 WL 761523 (Del. Mar. 3, 2011).